



Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of:)	
)	
The Effect of Foreign Mobile Termination Rates)	
on US Customers)	IB Docket No 04-398
)	
)	

Digicel USA Inc. reply comments on Notice of Enquiry

Introduction

Digicel submitted comments on 14 January in respect of the FCC's proceeding and now submits reply comments.

Interests of US consumers

Digicel wishes to support the thrust of the comments from Telefonica S.A. and AHCET with respect to the very high retail margins being charged by US international carriers. On the basis of the evidence that Digicel, Telefonica S.A. and AHCET have submitted, Digicel believes that US international carriers' retail margins are likely to be a matter of much more significance and relevance to US consumers than the mobile termination rates charged by foreign mobile operators. Digicel therefore remains of the view that, if the FCC's main concern is to protect US consumers, it should focus on US carriers' retail margins rather than foreign mobile termination rates.

Digicel would like to lend support to a number of NTT DoCoMo Inc's comments in particular. In its response, NTT DoCoMo states that "U.S. carrier surcharges on U.S. - originated calls to mobile telephones in various countries in Western Europe and in Japan ranged from 131.8 to 238.6 percent of the rates charged by mobile operators in those countries to terminate calls on their networks." This being the case, the issue of foreign mobile termination rates should be, at most, very much a subsidiary concern, ranking in importance and relevance behind both an examination of US carriers' retail margins and an analysis of US carriers' "mobile surcharges".

Digicel would also like to underline NTT DoCoMo's concern about U.S. international carriers' practice of assessing mobile surcharges on a per minute basis when DoCoMo and other foreign mobile operators assess termination charges on a per second basis. The use of per minute charging, where an entire minute's worth of "surcharge" is charged at the start of each minute, may lead, as the FCC knows, to surcharges that are effectively much higher than the headline rates.

CPP pricing regime

MCI Inc implies in its response that the potential for calling party pays (CPP) systems to lead to above cost termination rates has been recognised in Jamaica. Digicel refutes this contention. While it is true that the Jamaican regulator has expressed this view, the regulator's recent decision on mobile termination rates is subject to a current appeal on numerous substantive grounds including clear factual evidence of rapidly falling mobile termination rates in Jamaica since the liberalisation of the Jamaican market. This has led to some of the lowest mobile termination rates in the world only three years after the introduction of competition and in a CPP environment. This evidence is clearly not consistent with any argument that a CPP environment automatically leads to above cost termination rates. It also demonstrates that any analysis in respect of mobile termination rates has to be carried out on a case by case basis. There are many reasons why conditions in one country can vary significantly from those in other countries, hence justifying differential charging.

Impact of termination rates on consumers

Digicel also notes that MCI has contradicted its own position when stating that “Unnecessarily high mobile termination rates suppress demand for fixed to mobile calls”. Digicel agrees that high prices depress demand. That is why it is not in the interests of mobile operators to attempt to recover excessive mobile termination rates. Whether there is an incentive for mobile operators to reduce their termination rates does, of course, depend on whether for example such reductions would be “passed through” to consumers in the form of correspondingly lower retail prices but, based on the evidence of the majority of US carriers’ prices, this has not been common practice

Respectfully submitted

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